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7 Attorneys for Plaintiffs  
NORTHERN CALIFORNIA RIVER WATCH,  
8 TEAMSTERS LOCAL 70, and EAST BAY  
ALLIANCE FOR A SUSTAINABLE ECONOMY

9 **UNITED STATES DISTRICT COURT**

10 **NORTHERN DISTRICT OF CALIFORNIA**

11 NORTHERN CALIFORNIA RIVER WATCH,  
12 a non-profit corporation; TEAMSTERS  
13 LOCAL 70, a labor organization; and EAST  
BAY ALLIANCE FOR SUSTAINABLE  
ECONOMY, a non-profit organization,

14 Plaintiffs,

15 v.

16 OAKLAND MARITIME SUPPORT  
SERVICES, INC., a corporation; WILLIAM  
17 ABOUDI, an individual; and JORGE  
GONZALEZ RIVERA d.b.a. CHRISTIAN  
18 BROTHERS TRUCK SERVICES, an  
individual; and REDEVELOPMENT AGENCY  
19 OF THE CITY OF OAKLAND, a local public  
agency;

20 Defendants.

21 Case No.: 4:10-cv-3912 CW-JSC

22 **STIPULATION AND CONSENT TO  
AMEND COMPLAINT TO ADD CITY  
OF OAKLAND AS A DEFENDANT;  
ORDER**

23 Hearing: n/a  
Courtroom: A, 15<sup>th</sup> Floor  
Time: n/a

24 Hon. Presiding Judge Claudia Wilken

25 The parties hereby stipulate as follows and consent, pursuant to Federal Rules of Civil  
Procedure, Rule 15(a)(2), to amend the First Amended Complaint and, as needed, other operative  
pleadings to re-name the City of Oakland as a Defendant in this action in order to facilitate the  
Parties' completion of the tentative settlement reached on July 22, 2013.

26 WHEREAS, on November 2, 2010, Plaintiffs filed a First Amended Complaint that  
27 included the City of Oakland as a Defendant in this action;

1        WHEREAS, at that time, the City of Oakland Redevelopment Agency, not the City of  
2        Oakland, was the sole owner of the land leased by Defendant Oakland Maritime Support  
3        Services, Inc.;

4        WHEREAS, accordingly, on February 23, 2011, after confirmation of that underlying  
5        fact, Plaintiffs voluntary dismissed the City of Oakland without prejudice;

6        WHEREAS, effective February 1, 2012, Oakland's Redevelopment Agency ceased to  
7        exist, by operation of statute, and had its non-housing assets and liabilities transferred, by statute,  
8        to the Oakland Redevelopment Successor Agency ("ORSA");

9        WHEREAS, as of early 2012, the City of Oakland became the owner of the real property  
10      on which the OMSS facility is located;

11      WHEREAS, on July 22, 2013, the parties reached a settlement in principle of this matter,  
12      which was subject to several contingencies, and have been diligently proceeding since then to  
13      finalize a settlement agreement and resolve the contingencies identified in the tentative  
14      settlement;

15      WHEREAS, in late August 2013, the City and ORSA received written confirmation from  
16      the California Department of Finance and the State Controller's Office that the State of  
17      California would not exercise its so-called clawback authority to divest the City of title to the  
18      real property where the OMSS facility was located;

19      WHEREAS, with that contingency resolved, and in order to facilitate implementation of  
20      the tentative settlement by including the City, as the current landowner, as a signatory to the  
21      settlement agreement, the parties wish to amend the First Amended Complaint, and any other  
22      operative pleadings that may need to be similarly amended, so that the City is a party to this  
23      action;

24      WHEREAS, the First Amended Complaint already includes all necessary allegations  
25      addressing the City as a party to this action and the parties therefore do not believe there is any  
26      current, substantial need to submit a revised complaint;

WHEREAS, the parties also wish to avoid any delay and expense that might be associated with motion practice associated with a conventional amendment to the First Amended Complaint, or with amending other operative pleadings;

WHEREAS, the Parties agree that adding the City as a Defendant has not been unduly delayed (the confirmation of the City's status as title holder to the site in dispute coming in late August, 2013), that this stipulated amendment is a good faith effort to facilitate finalization of the parties' settlement, and that this stipulated amendment will not prejudice any of the parties;

WHEREAS, the City hereby acknowledges service of the First Amended Complaint and adopts as its own the answer filed by the Redevelopment Agency in April 25, 2011, without prejudice to its right to seek an amendment to that answer should the tentative settlement not resolve this action; and

WHEREAS, the City's counsel participated in the negotiations leading up to the Parties' agreement in principle reached on July 22, 2013, the City Council thereafter approved the term sheet prepared on July 22, 2013, and the City is committed to working in good faith with the other parties to promptly finalize the settlement of this action.

NOW, THEREFORE, the parties hereby stipulate and consent pursuant to Federal Rules of Civil Procedure, Rule 15(a)(2), to amend the First Amended Complaint to add the City of Oakland as a party Defendant and respectfully request the Court to enter an order confirming that amendment.

Dated: October 23, 2013

/s/ Michael R. Lozeau

MICHAEL R. LOZEAU  
Attorney for Plaintiffs

Dated: October 23, 2013

/s/ *Meredith E. Brown*

(as authorized on 10/23/13)  
**MEREDITH E. BROWN**  
Attorney for Defendants  
**OAKLAND MARITIME SUPPORT  
SERVICES, INC. and WILLIAM ABOUDI**

1 Dated: October 23, 2013

2 */s/ Robert Doty*  
3

4 (as authorized on 10/23/13)  
5 ROBERT DOTY  
6 Attorney for Defendants  
7 CITY OF OAKLAND and  
8 REDEVELOPMENT AGENCY OF THE  
9 CITY OF OAKLAND

10  
11 PURSUANT TO STIPULATION AND THE CONSENT OF ALL PARTIES  
12 APPEARING IN THIS ACTION, it is hereby ordered pursuant to Federal Rules of Civil  
13 Procedure, Rule 15(a)(2), that the First Amended Complaint is amended to add the City of  
14 Oakland as a party Defendant.

15 **IT IS SO ORDERED.**

16 Dated: October 24, 2013

17   
18 Hon. Claudia Wilken  
19 United States District Chief Judge

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